

HOUSE BILL 455

Q4

2lr1603

By: **Delegate Walker**

Introduced and read first time: February 1, 2012

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Sales and Use Tax – Snack Food – Application**

3 FOR the purpose of specifying that a certain exemption from the sales and use tax
4 does not apply to certain snack food; repealing a certain exemption from the
5 sales and use tax for certain snack food; providing that the sales and use tax
6 does not apply to the sale of a certain product through vending machines;
7 defining a certain term; and generally relating to the application of the sales
8 and use tax to snack food.

9 BY repealing and reenacting, with amendments,
10 Article – Tax – General
11 Section 11–206
12 Annotated Code of Maryland
13 (2010 Replacement Volume and 2011 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article – Tax – General**

17 11–206.

18 (a) (1) In this section the following words have the meanings indicated.

19 (2) “Food for immediate consumption” means:

20 (i) food obtained from a salad, soup, or dessert bar;

21 (ii) party platters;

22 (iii) heated food;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (iv) sandwiches suitable for immediate consumption; or

2 (v) ice cream, frozen yogurt, and other frozen desserts, sold in
3 containers of less than 1 pint.

4 (3) “Facility for food consumption” does not include parking spaces for
5 vehicles as the sole accommodation.

6 (4) (i) “Food” means food for human consumption.

7 (ii) “Food” includes the following foods and their products:

8 1. beverages, including coffee, coffee substitutes, cocoa,
9 fruit juices, and tea;

10 2. condiments;

11 3. eggs;

12 4. fish, meat, and poultry;

13 5. fruit, grain, and vegetables;

14 6. milk, including ice cream; and

15 7. sugar.

16 (iii) “Food” does not include:

17 1. an alcoholic beverage as defined in § 5–101 of this
18 article;

19 2. a soft drink or carbonated beverage; or

20 3. candy or confectionery.

21 (5) “Premises” includes any building, grounds, parking lot, or other
22 area that:

23 (i) a food vendor owns or controls; or

24 (ii) another person makes available primarily for the use of the
25 patrons of 1 or more food vendors.

26 (6) “SNACK FOOD” MEANS:

- 1 **(I) POTATO CHIPS AND STICKS;**
- 2 **(II) CORN CHIPS;**
- 3 **(III) PRETZELS;**
- 4 **(IV) CHEESE PUFFS AND CURLS;**
- 5 **(V) PORK RINDS;**
- 6 **(VI) EXTRUDED PRETZELS AND CHIPS;**
- 7 **(VII) POPPED POPCORN; OR**
- 8 **(VIII) SNACK MIXTURES THAT CONTAIN ANY ONE OR MORE OF**
9 **THE FOODS LISTED IN ITEMS (I) THROUGH (VII) OF THIS PARAGRAPH.**

10 **[(6)] (7)** “Substantial grocery or market business” means a business
11 at which at least 10% of all sales of food are sales of grocery or market food items, not
12 including food normally consumed on the premises even though it is packaged to carry
13 out.

14 (b) The sales and use tax does not apply to a sale of food stamp eligible food,
15 as defined in 7 U.S.C. § 2012, bought with a food coupon issued in accordance with 7
16 U.S.C. § 2016.

17 (c) (1) Except as provided in paragraph (2) of this subsection, the sales
18 and use tax does not apply to a sale of food for consumption off the premises by a food
19 vendor who operates a substantial grocery or market business at the same location
20 where the food is sold.

21 (2) The exemption under paragraph (1) of this subsection does not
22 apply to:

23 (i) food that the vendor serves for consumption on the premises
24 of the buyer or of a third party; [or]

25 (ii) food for immediate consumption; **OR**

26 **(III) SNACK FOOD.**

27 (d) The sales and use tax does not apply to:

28 (1) a sale of food:

1 (i) to patients in a hospital when the food charge is included in
2 the regular room rate;

3 (ii) by a church or religious organization;

4 (iii) by a school other than an institution of postsecondary
5 education, including sales at a school by a food concessionaire that is under contract
6 with the school or with its designated contract agent, but not including sales at events
7 that are not sponsored by the school or are not educationally related;

8 (iv) to students at an institution of postsecondary education if
9 the food charge is for a meal plan or is included in the regular charge for room and
10 board; or

11 (v) by a nonprofit food vendor if there are no facilities for food
12 consumption on the premises, unless the food is sold within an enclosure for which a
13 charge is made for admission;

14 (2) if the proceeds of the sale are used to support a bona fide
15 nationally organized and recognized organization of veterans of the armed forces of the
16 United States or auxiliary of the organization or 1 of its units, a sale of food or meals
17 for consumption only on the premises, served by the organization or auxiliary; or

18 (3) if the proceeds of the sale are used to support a volunteer fire
19 company or department or its auxiliary or a volunteer ambulance company or rescue
20 squad or its auxiliary, a sale of food served by the company, department, squad, or
21 auxiliary.

22 (4) a sale of food, bottled water, soft drink or carbonated beverage, or
23 candy or confectionery by a nonprofit food vendor at a youth sporting event or 4-H
24 youth event for individuals under the age of 18 years if there are no facilities for food
25 consumption on the premises, unless the sale is within an enclosure for which a charge
26 is made for admission.

27 (e) The sales and use tax does not apply to a sale of food or any beverage in a
28 vehicle that is being operated in the State while in the course of interstate commerce.

29 (f) The sales and use tax does not apply to a sale for consumption off the
30 premises of:

31 (1) crabs; or

32 (2) seafood that is not prepared for immediate consumption.

33 [(g) (1) In this subsection, "snack food" means:

34 (i) potato chips and sticks;

- 1 (ii) corn chips;
- 2 (iii) pretzels;
- 3 (iv) cheese puffs and curls;
- 4 (v) pork rinds;
- 5 (vi) extruded pretzels and chips;
- 6 (vii) popped popcorn;
- 7 (viii) nuts and edible seeds; or
- 8 (ix) snack mixtures that contain any one or more of the foods
- 9 listed in items (i) through (viii) of this paragraph.

10 (2) The sales and use tax does not apply to the sale of snack food

11 through a vending machine.]

12 **[(h) (G)** The sales and use tax does not apply to the sale through a vending

13 machine of milk, fresh fruit, fresh vegetables, **NUTS AND EDIBLE SEEDS**, or yogurt.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect

15 July 1, 2012.